

## 8.2.2 LEGISLATIVE POLICIES AND FUNDING PRIORITIES

### Adoption of City Legislative Policies and Funding Priorities for 2006

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**Executive Summary:** Each year, the City Council adopts Legislative Policies and Funding Priorities to guide the City's legislative advocacy efforts during the year. Adoption of such a list enables both Council and staff to react quickly to most legislative issues as they arise. Staff recommends Council adopt the 2006 Legislative Policies and Funding Priorities described in this report.

**BACKGROUND:** Since 2001, the City Council has formally adopted Legislative Policies and Funding Priorities to guide Council and staff advocacy efforts during the year. These policies and priorities are then given to the City's Legislators so that they know the City's position on a broad range of important issues. (Issues that arise mid-year that aren't covered by the Legislative Policies will be brought back for Council consideration as needed.) Given the ongoing State budget problems, it is unlikely the City will be asked to submit projects for funding this year. Nevertheless, it is important for the Council to approve a funding priorities list should such a request come from the City's representatives in Sacramento or Washington.

**Legislative Policies:** In general, the City of Fremont opposes any legislation or regulations that preempt local authority, negatively impact the City's budget, and/or impose unfunded mandates on the City. The City supports the use of incentives to encourage local government action, rather than the imposition of mandates.

#### Revenue and Taxation

- **Fiscal reform:** Since 1991, the State has drained more than \$30 billion of local property taxes from cities, counties and special districts - costing cities alone more than \$7 billion over the last 12 years. Even in years of budget surpluses, the State has used local funds to finance its constitutional funding obligation to public education, allowing it to increase State general fund spending for other programs at the expense of vital local services.

As part of the FY 2004/05 State budget deal, the Governor and local government representatives agreed that local governments would contribute \$1.3 billion a year for two years to help the State deal with its budget deficit in exchange for the Governor's support of a constitutional amendment to protect local revenues. The City of Fremont's share of the \$1.3 billion is \$2.7 million in General Fund property taxes and \$2.3 million in Redevelopment Agency property taxes each year, for a total of \$5 million in FY 2004/05

and \$5 million in FY 2005/06. The passage of Proposition 1A on the November 2004 ballot guaranteed the City some measure of protection against future State raids. Under the terms of Proposition 1A, however, the State can declare a fiscal emergency and once again “borrow” local revenues, twice within a ten-year period and providing prior loans have been repaid.

Local government cannot continue to subsidize the State. Every time Sacramento dips into local coffers to help balance its budget, cities and counties must cut critical local services like public safety and maintenance. The City opposes State efforts to “borrow” additional local revenues and encourages the State to find other ways to balance its budget.

- **Lower threshold for local taxes:** Local governments cannot easily raise revenues. Taxes to fund specific, important services, like park maintenance, public safety, and library hours must be approved by a two-thirds majority of the voters. This high vote requirement makes it extremely difficult for many cities to raise needed monies. The City therefore supports a constitutional amendment to lower the threshold for approval of local taxes to either 55% (the same requirement schools now face) or to a simple majority.
- **E-commerce:** Sales of goods and products over the Internet pose a serious threat to the City's overall sales tax revenue base. At a minimum, the Legislature should enact legislation to close the loophole in current law that allows corporations with a physical presence, or nexus, in California to evade their sales and use tax obligations by setting up related web-based businesses based outside California.
- **Streamlined sales tax:** The State is evaluating the impact of possibly adopting the Streamlined Sales and Use Tax Agreement in California. A major change in that Agreement would require all allocations of sales and use tax to be based on point of distribution (where the customer takes possession) rather than situs (where the sales transaction is made – the current basis). Several other states, notably Washington and Texas, that are attempting to comply with the Streamlined Agreement have discovered that the sourcing requirements will create winners and losers in local jurisdiction allocation of sales and use tax. For some cities there were sizeable losses. Any actions taken by the State with respect to the Streamlined Sales and Use Tax Agreement should not result in a loss of sales and use tax to local government because this is a significant revenue source for funding critical local services.
- **Telecommunications:** The U.S. Congress and many states are considering legislation to reshape the current regulation of telecommunication companies by cities and other governments. These legislative initiatives have the potential to reduce or eliminate a local agency's ability to collect franchise fees on cable television services, curtail its ability to regulate cable programming services and performance, and curb its ability to manage the public right-of-way. The City is opposed to legislation that would eliminate or reduce its franchise free revenues and result in the loss of its ability to manage the public right-of-way.
- **Flexibility in use of funds:** The State has discovered that it has been forced to change rules regarding funds normally devoted to specific purposes to deal with its budget crisis. Since

the State has decided that it must burden local governments with some share of its budget problem, then it should help mitigate that burden by loosening restrictions on restricted funds. Though it provides no fiscal relief, any rules relating to maintenance of effort (MOE) should be suspended. The City reduced its FY 2003/04 budget by about \$22 million. It is possible the City will be unable to meet many MOE requirements regarding public transportation. Just as the State has taken advantage of provisions in Proposition 42 that allow its General Fund to receive funds restricted by the voters to transportation, cities would benefit from having broad discretion over restricted revenue in balancing budget priorities. Gas taxes are the largest source of funds subject to restriction, but the principle applies to all restricted revenues distributed by the State. Until local and State government finance is reformed, restrictions should be lifted to provide the highest levels of discretion to elected representatives to manage the financial affairs of their jurisdictions.

### **Homeland Security**

- **Reimbursement:** Since the events of September 11, cities have had to assume additional staffing and equipment costs for emergency preparedness and public safety. Although local governments are usually the first to respond in cases of natural disasters and acts of terrorism, they receive little financial and technical assistance from the State and federal governments. The City supports legislation to provide resources for emergency planning, training, exercises, and equipment for emergency workers.

### **Transportation**

- **Lower threshold for approval of transportation sales taxes:** The City supports a constitutional amendment to lower the threshold for approval of sales and use taxes for transportation purposes. Currently, such taxes must be approved by two-thirds of the voters. The City supports lowering the requirement to either 55% (the same requirement schools now face) or to a simple majority.
- **Proposition 42 diversion of funds:** The City supports legislation to repeal the constitutional provisions of Proposition 42 that allow for the suspension of all or part of the annual transfer of motor vehicle fuel sales tax revenues from the General Fund to the Transportation Investment Fund (TIF).
- **Fuel tax increase:** The voters last increased the State fuel tax in June 1990 when Proposition 111 passed. This measure doubled the State fuel tax to 18 cents a gallon. Since then, California's fuel tax rate has lost nearly 25% of its buying power. The City supports fuel tax indexing or an increase to ensure funding for local street projects and maintenance.

### **Land Use**

- **Preservation of local land use authority:** The City opposes legislation that would remove or limit local government land use authority.
- **Housing elements:** The City opposes legislation that penalizes local governments for noncompliance with their housing element requirements. Proposed penalties have included loss of gas tax funds and court-ordered penalties for noncompliance.

### **Redevelopment**

- **Redevelopment fund flexibility:** For a number of years, the State has taken local redevelopment funds to help balance the State's General Fund budget. The State should allow cities similar flexibility. Cities with redevelopment agencies should also be able to pass an ordinance without proceeding through a formal redevelopment plan amendment process to authorize the pass through of tax increment revenue to the city. This will give cities with redevelopment agencies (and thereby property taxes from their redevelopment areas) more general fund operating dollars to use as needed.

Investment in regional transportation facilities, including mass transit and congestion management agency priority projects, should be de facto approved uses for redevelopment funds, inside or outside of project area boundaries. Relaxation of restrictions on strict benefit findings, and elimination of grounds for challenge in this area, would help the City. For other agencies, it would help offset the impacts on transportation caused by possible diversions of gas tax to other general fund purposes.

In order to fund investments in regional benefit transportation facilities, a simplified or streamlined amendment process should be established for pre-1994 redevelopment plans that seek to increase tax increment receipt limits for this purpose.

- **Benefits of redevelopment:** The City supports efforts to collect redevelopment cost benefit and/or return-on-investment data. Because there is little collection of such economic performance data, redevelopment agency funds are vulnerable to redirection and State takeaway. The City supports efforts to determine the number of jobs created and taxes generated from redevelopment agencies.
- **Affordable housing:** Fremont has been aggressive in spurring affordable housing development, and any State takeaways of unencumbered Redevelopment Agency Affordable Housing Funds would be catastrophic. There must be a recognition that redevelopment agencies do not typically encumber or reserve housing funds in the same manner as typical services and equipment purchase encumbrances are made. An affordable housing development generally requires three to five years to build the equity necessary to complete a project. Therefore, Affordable Housing Funds should be considered encumbered once the Agency Board has passed a resolution or taken some other formal action to reserve funds for a particular housing development or program.
- **Selective eminent domain:** In the face of poorly informed public concerns about the effects of a recent U.S. Supreme Court decision regarding local use of eminent domain powers (the Kelo decision), it is important to recognize and preserve the legitimate use of redevelopment eminent domain powers, primarily concerning non-residential properties, for the elimination of blight and the revitalization of neighborhoods and commercial districts in established project areas that have met stringent statutory requirement for their formation. The Fremont Redevelopment Agency has been successful in undertaking redevelopment activities with very limited use of eminent domain. However, revitalization of the City's historic commercial district project areas, and certain transportation projects with regional benefit, may occasionally require the selective use of eminent domain over non-residential properties to assemble viable sites for private reinvestment and redevelopment. Loss of such power through overly broad legislative reactions to the Kelo decision could seriously impair redevelopment agencies' ability to perform the very

purposes assigned to them under the Community Redevelopment Law - elimination of blight, revitalization of commercial districts, and provision of local jobs for project area residents.

### **Employee Relations**

- **Mandated employee benefits:** Decisions about employees' benefits should be made at the local level, through the collective bargaining process, not mandated by the State. Therefore, the City opposes legislation mandating new or enhanced local employee benefits because such benefits can impose financial costs and administrative burdens on local governments.
- **4850 benefits:** Under current law (Labor Code Section 4850), public safety employees who are totally temporarily disabled by injury or illness on the job are entitled to a leave of absence at full salary, tax free, for up to one year. The City opposes legislation to extend that timeframe.
- **Workers' compensation:** The City opposes any new or additional workers' compensation benefits and supports legislation to further reform the system and lower employer costs.
- **Second tier PERS benefits:** Existing law allows a CalPERS local contracting agency to amend its contract with CalPERS in order to create a second tier of benefits, subject to certain restrictions. The second tier can only apply to employees who are hired after the contract effective date or who change membership classification after the contract amendment date. Existing law also prohibits local agencies from amending their contracts with CalPERS to reduce employee benefits for existing employees. However, a second tier, which applies to prospective employees only, may provide a lesser or different level of optional benefits than exists for employees in the first tier. The City opposes legislation to eliminate a local contracting agency's ability to reduce or modify benefits for new employees of the agency.
- **Mandatory Social Security coverage:** Various federal commissions and entities have recommended mandatory Social Security coverage for newly hired local government employees. This is, at best, a short-term solution to a federal government problem and would result in additional salary costs to both the City and newly hired employees. Public plans (e.g., CalPERS) were established before Social Security and continue to serve employees well. Social Security - not public plans - has lived beyond its means, resulting in the current actions to use federal budget surplus, among other things, to "save" Social Security, and the need to continue to find new revenues (e.g., bringing newly hired local government employees into the system). In addition to the potential of mandatory Social Security coverage, current law provides for reduced Social Security benefits if an employee retires from a local agency and is also eligible for Social Security benefits for work performed at another employer that participated in Social Security. This occurs through either the Windfall Elimination Provision (WEP), because of the employee's own Social Security account, or the Government Pension Offset (GPO), because of the employee's access to the account of a spouse or ex-spouse. Both of these provisions need to be modified so that City employees are not penalized for work performed in addition to their local government service.

- **Pension reform:** Employer costs for the State's defined benefit retirement system (CalPERS) have increased significantly in recent years. The Governor and the Legislature are exploring various means of achieving cost control and budget certainty. The City supports pension reform, provided that it achieves savings without imposing additional costs.

### **Public Safety**

- **Fire protection in schools:** The City supports requiring the installation of automatic fire sprinkler systems in new and remodeled schools. The City has a comprehensive fire sprinkler ordinance that requires fire sprinkler systems to be installed in all new buildings and existing apartment buildings with internal corridors accommodating ten or more apartments. Because public schools fall under the State's jurisdiction, however, this life- and property-saving ordinance does not apply to them.
- **COPS Funding:** The City supports funding for the Citizens' Option for Public Safety (COPS) program, which helps pay for police officer salaries and benefits.
- **Fire Service Funding:** The City supports funding for fire staffing, disaster preparedness, and training.
- **Booking Fee Reimbursement:** Booking fees are levied by counties when a city police officer makes an arrest and delivers a suspect into county jail for booking or detention. The State used to reimburse cities for these county-levied booking fees. In FY 2005/06, the State did not fund the reimbursement of booking fees, leading to a loss of more than \$100,000 for the City of Fremont. The City supports the full restoration of booking fee reimbursement.

### **Human Services**

- **Additional Funding for Multipurpose Senior Service Program:** The Multipurpose Senior Service Program (MSSP) diverts nursing home-eligible elders from institutional placement. Forty-one sites, including Fremont, provide care management for frail elderly clients who must be certified for placement in a nursing facility but who choose to live at home with MSSP support. The program is a cost-effective alternative to nursing homes, and every dollar the State spends on MSSP is matched by a federal dollar. The MSSP program has had only one small increase in funding in 22 years. The City therefore supports increasing State funding for this important program.

### **Environment**

- **Recycling:** The City supports continuation of existing Source Reduction & Recycling Act (AB 939) waste diversion requirements. Local jurisdictions should be considered in compliance with AB 939 goals if they have met the waste diversion goals or if they are making a good faith effort to implement applicable Source Reduction and Recycling Element (SRRE) programs.

- **Sustainable Development:** The City supports legislation that addresses sustainable development practices, including “green building” and that provides financial and technical support to local government in implementing such practices.
- **Climate Protection:** The City supports legislation and policies that assist local government in meeting or exceeding a goal of reducing global warming pollution levels to 7% below the 1990 levels. These efforts may include reducing dependence on fossil fuels, developing alternative energy resources, and developing fuel-efficient technologies.
- **Local autonomy:** The City opposes legislation that preempts local planning decisions regarding solid waste facility siting, preempts local solid waste and AB 939 fee setting authority, or imposes taxes or fees on local solid waste programs to fund State programs not directly related to solid waste management.
- **Litter control and abatement:** The City supports legislation to address litter control and abatement problems in California, including measures to expand the enforcement authority of the California Highway Patrol to include enforcement measures for any vehicle generating litter on public roads; provide for effective enforcement of antilitter laws; implement a strong statewide anti-litter outreach campaign; and provide for cleanup of littered areas.
- **Producer responsibility:** The City supports legislation to require manufacturers to assume financial and/or physical responsibility for the costs of collecting, processing, recycling, or disposing of products at end-of-life. This includes products that create significant economic burdens on local government for end-of-life management because high volumes of the material exist in the waste stream, or because the nature of the product makes it difficult to manage in the current integrated waste management system. This also includes computer, electronic, and other products that incorporate hazardous materials requiring special handling.
- **Recycled product market development:** The City supports legislation encouraging manufacturers to include post-consumer recycled material in their products. The City also supports encouraging state and local government agencies and school districts to purchase products made with post-consumer recycled material, reduce waste, and that reduce toxicity of materials that may be discarded or disposed in the future.
- **Stormwater program funding:** The City supports legislation that would make it easier for cities to fund and comply with new and increasingly stringent storm water quality permit requirements, including adding fees for storm water management programs to those voter approved exemptions already included in Proposition 218.

#### **Funding Priorities:**

1. **Washington Boulevard/Paseo Padre Parkway Grade Separations:** The City is leading the project team working to design and construct a railroad overpass at Washington Boulevard and an underpass at Paseo Padre Parkway. These two grade separations will help relieve local congestion and will facilitate the BART extension to Warm Springs. The

City is contributing \$37.7 million to this project. No federal funds can be used on this project because it has not received federal environmental clearance. **Estimated shortfall – approximately 22% of the construction cost estimate, slightly less if we receive a State grant.**

2. **Irvington BART Station and Warm Springs BART Extension:** As far back as 1979, plans for the Warm Springs BART Extension have assumed the extension would include an Irvington BART Station located near the intersection of Washington Boulevard and Osgood Road. In the 1980's, when the Metropolitan Transportation Commission (MTC) established funding priorities for new rail transit starts and extensions in MTC Resolution 1876, it was agreed that BART extensions to Pittsburgh, Dublin, and Warm Springs would all add two new stations. However, due to funding constraints, BART's supplemental EIR included the Irvington Station as an optional station. BART is now moving forward with the extension to Warm Springs with an optional Irvington Station, and BART and the Santa Clara Valley Transportation Authority are working together on the BART extension to San Jose and Santa Clara. To date, no funding has been identified for an Irvington BART Station, nor has full funding been secured for the Warm Springs Extension. **Estimated shortfall – \$76 million for the Irvington Station; \$200-\$285 million for the Warm Springs Extension.**
3. **I-680/I-880 Cross Connectors:** The City is involved in discussions regarding the cross connectors between I-680 and I-880. VTA has completed an evaluation of the short-term and long-term projects encompassed by the cross connector study. The short-term improvements include: the widening of Auto Mall Parkway to six lanes (estimated cost \$20-\$25 million); widening Fremont/Grimmer Boulevards at grade to six lanes (estimated cost \$50-\$60 million); and improving Kato Road to include a new I-880 overcrossing to Fremont Boulevard (estimated cost \$30-\$35 million). Neither the City nor VTA has been able to identify any funding for these projects. **Estimated shortfall – \$100-\$120 million.**
4. **ADA Compliance for Intersections:** The City desires to upgrade or install intersection ramps to comply with the latest Americans with Disabilities Acts (ADA) standards within the public right-of-way. The new ramps will meet the ADA requirements for slopes, landings, and detectable warning surfaces. The ramps will improve the accessibility of public sidewalks, and the detectable warning surfaces will alert visually impaired pedestrians to the presence of an intersection. The City will be adopting a Transition Plan which will prioritize the locations for the upgrading of the ramps. **Estimated shortfall - \$45 million.**
5. **Mission Boulevard/I-880 Interchange Improvement Project:** The City is working with the Alameda County Transportation Authority (ACTA) on a project to improve the Mission Boulevard interchange. The Phase IA improvements include the construction of all improvements for the Mission/I-880 interchange. Phase IB includes widening Mission Boulevard and constructing the Kato Road ramps. This phase will create additional capacity on Mission Boulevard and will replace the existing Kato ramps removed in Phase IA. Phase II includes a grade separation at Warren Avenue to accommodate the future BART extension to San Jose. This grade separation eliminates the Union Pacific Railroad grade crossings that are routinely blocked by freight trains. It also facilitates the BART extension to San Jose. The City has committed over \$55 million to the project, plus the



value of the right-of-way the City purchased to facilitate the project. Initially, ACTA was to reimburse the City for the cost of the right-of-way. Now, the City is donating this right-of-way to the project, thereby increasing the City's contribution to the project. **Estimated shortfall Phase IA – None. Estimated shortfall Phases IB and 2 - \$42.3 million. Note: This project may be fully funded using State funds.**

- 6. Interoperability:** The City's Police and Fire Departments rely upon the Alameda County Radio System for communications. The City joined the County's system, and purchased the requisite equipment, in order to have better interoperability with neighboring communities and the County. The current analog communication system is proprietary and does not communicate with other local agencies (such as the Oakland and Hayward Police Departments) not using the Motorola SMARTNET system. Alameda County recently signed a contract with Motorola to develop a digital communication system that would be able to interface with the systems used by other agencies, thereby providing interoperability throughout the region. Once the new system is developed and deployed, which could be as early as 2007, all users would need to upgrade to digital equipment. The City has no funds identified to replace the current analog equipment with this new digital equipment. **Estimated shortfall – up to \$4 million.**
- 7. Sidewalk Repair:** The City's infrastructure, in many areas, is over forty years old, and the street trees are just as old, or older. The roots from these street trees can displace pavement and cause hazardous conditions for pedestrians and cyclists. This displacement can also cause accessibility challenges for those citizens attempting to get around the City. The City now provides temporary patches and has a long-term plan to fix sidewalks. However, the needs exceed the City's available resources. As the City ages, this problem will grow, unless we can secure funds to increase our capacity to deal with the street trees and sidewalks. **Current estimated shortfall – up to \$20 million.**
- 8. Street/Pavement Rehabilitation:** The City's streets are our highest valued capital asset, with an investment of nearly \$1 billion. As any street system ages and traffic loading increases (caused by events such as changes in bus routes and the use of heavier waste hauling and delivery trucks), the long-term maintenance needs increase. The City's computer-based Pavement Management System (PMS) has identified approximately \$81 million in needed pavement maintenance over the next five years. That level of funding would bring the entire street system up to the desired 83 Pavement Condition Index (PCI). The City only has funding for \$3.8 million annually for overlay projects. **Estimated shortfall – up to \$62 million.**
- 9. Joint Traffic Management and Emergency Operations Center (Joint TMCEOC):** There is a critical link between traffic management and emergency response. Recent events like the mass evacuations from recent hurricanes have shown the need to coordinate traffic management response with emergency response. Many agencies have a Traffic Management Center (TMC) and/or an Emergency Operations Center (EOC), but they are generally separate facilities. Agencies are now recognizing the need to incorporate the functions of a TMC into an EOC. TMCs are typically equipped with communications systems that can be used by an EOC. They also have live video camera feeds from the streets which, during an emergency, can be used by EOC staff to monitor, evaluate, and verify incidents in the field from a central location. TMCs also have live status of all traffic

signals and roadway conditions, which can be used by EOC staff to determine evacuation routes and emergency response routes. The City of Fremont currently has a TMC but not an EOC. Building an EOC has been an unfunded project in the City's Capital Improvement Program for many years. Combining the TMC with an EOC in a seismically retrofitted City building would improve the City's emergency response capacity and its traffic management response. **Estimated cost – \$3 million.**

**10. Citywide Fiber Optic and Intelligent Transportation Systems (ITS) Deployment:** As the City's existing copper signal interconnect cable (that communicates media for the City's traffic signals) ages and becomes obsolete, it needs to be replaced by high bandwidth fiber optic cable. The use of fiber optic cable provides unlimited possibilities to serve other City needs and facilities not available in the past with copper interconnect cable. Fiber optic cables can link traffic signals, closed circuit television cameras, and changeable message signs. In addition, the use of fiber optic cable gives the City the ability to provide a more secure and reliable high bandwidth connection to other city facilities such as fire stations, community centers, recreation centers, and libraries. These facilities are either not connected at all, or they are on less reliable, lower bandwidth, leased lines. Installing fiber optic cable also gives the City the opportunity to provide wireless private and public "hot-spots" at high-density public gathering places. These hot-spots will facilitate emergency response by providing both police officers and firefighters with the same online computer access in their vehicles on the street as they would get if they were sitting in a City office. This project, which can be phased and constructed on a segment-by-segment basis, would install fiber optic cable throughout Fremont to interconnect facilities such as traffic signals, the maintenance center, fire stations, community centers, recreation centers, and libraries. In addition, the installation of closed circuit television cameras and changeable message signs throughout the city would enable staff to better manage and direct traffic. **Estimated cost – \$10.5 million.**

**11. Grade Separation Study:** By the year 2012, the number of trains (primarily commuter trains) crossing four major streets in the Centerville Area is projected to increase from the present 20 crossings per day to over 50 crossings per day. After 2012, the number of daily crossings is projected to continuously increase and consequently increase traffic delay at the four at-grade crossings, Fremont Boulevard, Maple Street, Dusterberry Way and Blacow Road. Several of these roads are critical commute routes that are already experiencing traffic delays due to these grade crossings. A 150% increase in the number of crossings would greatly exacerbate this problem. A grade separation study would evaluate the feasibility and cost of adding grade separations at each of these four major streets that will be impacted by the dramatic increase in the number of trains which pass through this area. **Estimated cost - \$200,000.**

**12. Mowry Avenue Widening Between Overacker Avenue and Mission Boulevard (under two active railroad bridges):** The segment of Mowry Avenue between Overacker Avenue and Mission Boulevard passes under two old narrow railroad bridges that force the roadway to narrow to one lane in each direction. This segment of Mowry is one of the most congested roadways in the City. In fact, this segment was determined to be "deficient" by the County's Congestion Management Agency. To eliminate the bottleneck, this segment of Mowry Avenue needs to be widened to two lanes in each direction. This requires

demolishing and reconstructing both railroad bridges while maintaining freight service and widening the street. **Estimated cost - \$40-45 million.**

**ENCLOSURE:** None.

**RECOMMENDATION:** Adopt the 2006 Legislative Policies and Funding Priorities and authorize the Mayor to convey the Legislative Policies and Funding Priorities to Assemblymember Torrico and Senator Figueroa.